

United States
Circuit Court of Appeals
For the Ninth Circuit.

LARKIN-GREEN LOGGING COMPANY, a Corporation,

Appellant,

vs.

R. L. SABIN, as Trustee in Bankruptcy of the Estate of CONSUMERS' LUMBER & SUPPLY COMPANY, a Corporation,

Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for the District of Oregon.

Filed

JAN 28 1915

F. D. Monckton,
Clerk.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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Names and Addresses of Attorneys of Record.

KOLLOCK, ZOLLINGER and McDOWALL,
Corbett Building, Portland, Oregon, for the
Appellant.

BEACH, SIMON & NELSON, Board of Trade
Building, Portland, Oregon, and SIDNEY
TEISER, Morgan Building, Portland, Ore-
gon, for the Appellee.

*In the District Court of the United States for the
District of Oregon.*

No.———

R. L. SABIN, Trustee in Bankruptcy of the ES-
TATE OF CONSUMERS' LUMBER & SUP-
PLY COMPANY, a Corporation,

Plaintiff,

vs.

LARKIN-GREEN LOGGING COMPANY, a
Corporation,

Defendant.

United States of America,
District of Oregon,—ss.

[Citation on Appeal (Original).]

TO R. L. SABIN, Trustee in Bankruptcy of the
Estate of Consumers Lumber & Supply Com-
pany, a corporation, Greeting:

WHEREAS, Larkin-Green Logging Company, a
corporation, has lately appealed to the United States
Circuit Court of Appeals for the 9th Circuit from a
decree made, rendered and entered in the United

States District Court for the District of Oregon, made in favor of you, the complainant and plaintiff therein, the said R. L. Sabin, Trustee in Bankruptcy of the Estate of Consumers' Lumber & Supply Company, a corporation, and has filed the security required by law.

YOU ARE, THEREFORE, HEREBY CITED to appear at the said United States Circuit Court of Appeals for the 9th Circuit, at the City of San Francisco, California, within thirty days from the date hereof, to do and receive what may appertain to justice to be done in the premises.

Given under my hand and seal at Tacoma, Washington this — day of December, A. D. 1914.

CHAS. E. WOLVERTON,
District Judge. [1*]

Due personal service of the within citation and receipt of copy acknowledged this 29th day of December, 1914.

SIDNEY TEISER,
Of Solicitors for Complainant. [2]

[Endorsed]: No. 6561, 19—98. In the District Court of the United States for the District of Oregon. R. L. Sabin, Trustee, Plaintiff, vs. Larkin-Green Logging Co., Defendant. Citation. U. S. District Court. Filed Dec. 28, 1914. By G. H. Marsh, Clerk. District of Oregon. [3]

*Page-number appearing at foot of page of original certified Record.

*In the District Court of the United States for the
District of Oregon.*

November Term 1914,

Be it remembered, that on the 13th day of November, 1914, there was duly filed in the District Court of the United States for the District of Oregon, an amended Bill of Complaint, in words and figures as follows, to wit: [4]

*In the District Court of the United States for the
District of Oregon.*

R. L. SABIN, Trustee in Bankruptcy of the Estate of Consumers Lumber & Supply Company, a Corporation,

Plaintiff,

vs.

LARKIN-GREEN LOGGING COMPANY,
a Corporation,

Defendant.

Amended Complaint in Equity.

To Honorable CHARLES E. WOLVERTON, and
Honorable R. S. BEAN, Judges of the District
Court of the United States for the District of
Oregon:

R. L. Sabin, trustee of the estate of Consumers' Lumber & Supply Company, a corporation, brings this bill of complaint against Larkin-Green Logging Company, a corporation, and complains and says:

I.

That at all the times hereinafter mentioned Lar-

4 *Larkin-Green Logging Company*

kin-Green Lumber Company, a corporation, was, ever since has been, and now is a corporation duly organized and existing under and by virtue of the laws of the State of Oregon.

II.

That heretofore, to wit, on the 17th day of April, 1913, a petition in involuntary bankruptcy was filed in this court against the Consumers' Lumber & Supply Company, a corporation, which said petition in involuntary bankruptcy is and was in the following words and figures, to wit:

*In the District Court of the United States for the
District of Oregon.*

In the Matter of CONSUMERS' LUMBER & SUPPLY CO., a Corporation.

Petition in Bankruptcy.

To the Honorable the Judges of the above-entitled Court:

The petition of E. C. Atkins & Company, a corporation of Chicago, Illinois, Honeyman Hardware Company, a corporation [5] of Portland, Oregon, The Gauld Company, a corporation of Portland, Oregon, and Robert A. Stewart and Charles A. Stewart, co-partners doing business as Stewart Brother's Company of Portland, Oregon, respectfully shows that Consumers' Lumber & Supply Company, during all the times hereinafter mentioned was, ever since has been and now is a corporation organized and existing under the laws of the State of Oregon.

That said Consumers' Lumber & Supply Company,

of Portland, Oregon has for the greater portion of six months next preceding the date or filing this petition, in fact, ever since its incorporation and organization, had its principal place of business and now has its principal place of business at Linnton in the County of Multnomah and State and District aforesaid, and owes debts to the amount of more than One Thousand Dollars and is a corporation principally engaged in manufacturing, trading and mercantile pursuits, to wit: in the manufacture of lumber and the selling and trading of lumber and like products.

That your petitioners are creditors of said Consumers Lumber & Supply Company having provable claims amounting in the aggregate, in excess of securities held by them, to the sum of Five Hundred Dollars (\$500.00).

That the nature and amount of your petitioners' claims are as follows, to wit:

That of E. C. Atkins & Company is for goods, wares and merchandise sold and delivered by said E. C. Atkins & Company to Consumers Lumber & Supply Company, consisting of chains, bits, holders, saws, bolting and like merchandise on account of which there remains due and unpaid a balance in the sum of Sixteen Hundred Ninety Dollars and Forty Cents (\$1690.40).

The claim of Stewart Brothers Company is for goods, wares and merchandise sold and delivered by said Stewart Brothers Company to said Consumers Lumber & Supply Company, on account of which, there remains unpaid the sum of Ten and 60/100 Dollars (\$10.60).

The claim of The Gauld Company is for goods, wares and merchandise consisting of plumbing material of the reasonable value of One Hundred Thirty-three and 08/100 Dollars (133.08), which amount remains and is unpaid and which material has been sold and delivered to said Consumers Lumber & Supply Company by the said Gauld Company.

The claim of Honeyman Hardware Company is for goods, wares and merchandise consisting of hardware in iron and steel material, which had been sold and delivered to the said Consumers Lumber & Supply Company by the said Honeyman Hardware Company, on which there is and remains unpaid a balance of Twelve Hundred Forty and 50/100 Dollars (\$1240.50).

And your petitioners further represent that said Consumers Lumber and Supply Company is insolvent and that within four months next preceding the date of this petition, the said Consumers Lumber & Supply Company committed an act of bankruptcy, in that it allowed Larkin-Green Logging Company to levy an attachment on all of the assets and property of said Consumers Lumber & Supply Company, which attachment has never been released or discharged or vacated, and which attachment was levied on December eighteenth, 1912, and will become a prior lien and cannot be removed or set aside or dissolved through bankruptcy proceeding, after April eighteenth, 1913.

That said Consumers Lumber & Supply Company has done nothing to vacate or set aside said attachment and has not [6] gone into bankruptcy volunt-

tarily and its failure to do so will thereby create a preference in favor of said Larkin-Green Logging Company, by reason of the attachment levied by said Larkin-Green Logging Company on said December eighteenth, 1912; said attachment is still a lien on all the assets of said debtors.

That unless said Consumers Lumber & Supply Company is adjudicated a bankrupt and unless this petition is filed forthwith, a preference will be gained and obtained by said Larkin-Green Logging Company as well as by Linnton Savings Bank, which levied a writ of attachment and attached all of the assets of said Consumers Lumber & Supply Company on December 26th, 1912, and therefore on April 26th, 1913, said Linnton Savings Bank will also obtain a preference, as said Consumers Lumber & Supply Company has done nothing to set aside said attachment, nor has it filed a voluntary petition in bankruptcy.

That the said obligations owing to said Larkin-Green Logging Company and Linnton Savings Bank are for prior indebtedness which was owing to the said attaching creditors prior to said December 18th, 1912.

That by reason of the foregoing facts said Consumers Lumber & Supply Company has permitted and suffered a preference in favor of said Larkin-Green Logging Company and Linnton Savings Bank which can only be set aside through an adjudication in bankruptcy, of said Consumers Lumber and Supply Company.

That at the time of the levy of said attachment and

for some time prior thereto and ever since that date, said Consumers Lumber & Supply Company has been insolvent and now is insolvent within the purview and meaning of the Bankruptcy Act, and its assets do not now equal and did not at the time of the levy of said attachments, and have not since equaled its liabilities at a fair market value of said assets.

WHEREFORE your petitioners pray that service of this petition with a subpoena, may be made upon said Consumers Lumber & Supply Company, as provided in the Acts of Congress relating to bankruptcy, and that it may be adjudged by the Court to be a bankrupt within the purview of said Act.

E. C. ATKINS & COMPANY,

By BEACH, SIMON & NELSON,

Its Attorneys.

HONEYMAN HARDWARE COMPANY,

By DAVID T. HONEYMAN,

Its Treasurer.

THE GAULD COMPANY,

By H. D. CURTIS,

Its Secretary.

STEWART BROTHERS COMPANY,

By C. A. STEWART,

President.

MARION DOLPH,

BEACH, SIMON & NELSON,

Attorneys for Petitioners.

United States of America,

District of Oregon,

County of Multnomah,—ss.

I, David T. Honeyman, being first duly sworn, de-

pose and say that I am Treasurer of the Honeyman Hardware Company, a corporation of Portland, Oregon, one of the petitioners above named and do hereby make solemn oath that the statements contained in the foregoing petition, subscribed by them are true.

DAVID T. HONEYMAN,

Before me a Notary Public this 17th day of April, 1913.

[Seal]

SIDNEY ZETOSCH,
Notary Public for Oregon. [7]

United States of America,
District of Oregon,
County of Multnomah,—ss.

I, H. D. Curtis, being first duly sworn, depose and say that I am Secretary of The Gauld Company, a corporation of Portland, Oregon, one of the petitioners above named and do hereby make solemn oath that the statements contained in the foregoing petition, subscribed by them, are true.

H. D. CURTIS,

Before me a Notary Public this 17th day of April, 1913.

[Seal]

SIDNEY ZETOSCH,
Notary Public for Oregon.

United States of America,
District of Oregon,
County of Multnomah,—ss.

I, C. A. Stewart, being first duly sworn, depose and say that I am one of the members of the firm of Stewart Brothers Company of Portland, Oregon, one

of the petitioners above named, and do hereby make solemn oath that the statements contained in the foregoing petition, subscribed by them, are true.

C. A. STEWART,

Before me a Notary Public this 17th day of April, 1913.

[Seal]

SIDNEY ZETOSCH,
Notary Public for Oregon.

United States of America,
District of Oregon,
County of Multnomah,—ss.

I, N. D. Simon, being first duly sworn, depose and say that I am one of the attorneys for E. C. Atkins & Company, one of the petitioning creditors within named. That I have personal knowledge of the facts stated in said petition and that the same are true as I verily believe.

That I make this verification, because no officer of said petitioning creditors is at present within the District or State of Oregon.

That I have been authorized by said E. C. Atkins & Company to file said petition and to make this verification.

N. D. SIMON.

Subscribed and sworn to before me this April 17th, 1913.

[Seal]

SIDNEY ZETOSCH,
Notary Public for Oregon.

III.

That thereafter, to wit: on the 23d day of April, 1913, said Larkin-Green Logging Company, a cor-

poration, appeared in this court through their attorneys, and filed a demurrer therein to said involuntary petition in bankruptcy, which said demurrer is and was in the following words and figures, to wit:

[8]

"In the District Court of the United States for the District of Oregon.

In the Matter of the Application of HONEYMAN HARDWARE COMPANY and Others to Have the CONSUMERS LUMBER & SUPPLY COMPANY, a Corporation, declared a Voluntary Bankrupt.

Demurrer.

Comes now LARKIN-GREEN LOGGING COMPANY, a corporation, organized and existing under and by virtue of the laws of the State of Oregon, and respectfully shows that it is a creditor of Consumers Lumber & Supply Company, and intervening as such creditor, specially and for the purpose of filing this demurrer, hereby demurs to the petition of Honeyman Hardware Company and others praying that the Consumers Lumber & Supply Company should be declared and adjudged a bankrupt under the laws of the United States, on the ground and for the reason that the facts alleged and recited in said petition as acts of bankruptcy do not constitute acts of bankruptcy under the statute or under the provisions of the law of the United States referring to bankruptcy; and that the said petition does not set forth sufficient facts to constitute acts of bankruptcy

under said statute or under the provisions of the law of the United States referring to bankruptcy, or sufficient to entitle the petitioners to an order adjudging the Consumers Lumber & Supply Company a bankrupt, or to confer jurisdiction upon this court to act upon said petition or to adjudge said Consumers Lumber & Supply Company, a bankrupt.

KOLLOCK & ZOLLINGER,
Attorneys for Larkin-Green Logging Company, an
intervening creditor.

I hereby certify that the foregoing demurrer is in my opinion well founded in point of law.

JOHN K. KOLLOCK,
Of Counsel for Larkin-Green Logging Company, an
intervening creditor.

State of Oregon,
District of Oregon,—ss.

FRED H. GREEN, being duly sworn, deposes and says: I am Secretary of the above-named intervening creditor, Larkin-Green Logging Company; the foregoing demurrer is not interposed for delay.

FRED H. GREEN.

Subscribed and sworn to before me this 22d day of April, 1913.

[Seal]

JOHN K. KOLLOCK,
Notary Public for Oregon."

IV.

That thereafter argument was had upon said demurrer by counsel for said demurrants, as well as by counsel for said petitioning creditors, and the Court, after consideration, entered on the 5th day

of May, 1913, an order overruling said demurrer, which said order was and is in the following words and figures, to wit: [9]

"In the District Court of the United States for the District of Oregon.

No. 2355—IN BANKRUPTCY.

In the Matter of CONSUMERS LUMBER & SUPPLY CO.,

Bankrupt.

This cause came on regularly for hearing at this time upon demurrer of Larkin-Green Logging Company to petition; Mr. John McCulloch appearing in behalf of demurrer.

Whereupon, said demurrer having been duly submitted after due consideration, It is Ordered that the said demurrer be, and the same hereby is, overruled.

WITNESS, the Honorable CHAS. E. WOLVERTON, Judge of said Court, and the seal thereof, at Portland, May 5, 1913.

(Signed) A. M. CANNON,
Clerk.

(Signed) By Fred H. Drake,
Deputy Clerk."

V.

That thereafter, to wit: on the 17th day of May, 1913, said Consumers Lumber & Supply Company, a corporation, by its attorney, Frederick H. Whitfield, appeared in this court and filed an answer to said involuntary petition in bankruptcy admitting

all the allegations thereof, and praying that it be adjudged bankrupt by this Court, in the following words and figures, to wit:

"In the District Court of the United States for the District of Oregon.

In the Matter of CONSUMERS LUMBER & SUPPLY COMPANY,

Alleged Bankrupt.

Answer.

Comes now the Consumers Lumber & Supply Company, a corporation, and as and for its answer to the petition of E. C. Atkins & Company, Honeyman Hardware Company, The Gauld Company and Stewart Brothers Company, filed herein April 17, 1913, asking for an adjudication of bankruptcy in this cause, says and alleges:

I.

It admits each and every statement, allegation and averment in said petition contained, and that said petition is substantially true in all particulars.

WHEREFORE, this alleged bankrupt prays that it be adjudicated by this Court to be a bankrupt within the purview of the Act of Congress in such case made and provided.

(Signed) FREDERICK H. WHITFIELD,
Solicitor for Alleged Bankrupt."

VI.

That on the 7th day of May, 1913, this Court having [10] jurisdiction of the parties to the said involuntary bankruptcy proceedings, and of the sub-

ject matter thereof, made and entered an order or decree of adjudication, which said order or decree of adjudication was and is in the following words and figures, to wit:

*"In the District Court of the United States for the
District of Oregon.*

No. 2355—IN BANKRUPTCY.

In the Matter of CONSUMERS' LUMBER &
SUPPLY CO., a Corporation,

Bankrupt.

At Portland, in said District, on the 7th day of May, A. D. 1913, before the Honorable CHARLES E. WOLVERTON, Judge of said Court in Bankruptcy, the petition of E. C. Atkins Co., of Chicago, Ill., Honeyman Hardware Co., The Gauld Company, and Stewart Brothers Co., of Portland, Ore., that Consumers Lumber and Supply Company be adjudged a bankrupt, within the true intent and meaning of the acts of Congress relating to bankruptcy, having been heard and duly considered, the said Consumers Lumber & Supply Company is hereby declared and adjudged bankrupt accordingly.

WITNESS the Honorable CHARLES E. WOLVERTON, Judge of said Court and the seal thereof affixed at Portland, in said District, this 7th day of May, 1913.

[Seal]

A. M. CANNON,
Clerk.

By F. L. Buck,
Deputy Clerk."

VII.

That no motion has been filed by the defendant herein, or at all, to vacate, set aside, or modify said adjudication, and that no appeal, writ of error, or writ of review has been taken from said order of adjudication, or from any proceeding in said bankruptcy cause, and that said order of adjudication has not been vacated, set aside, or modified, and is now and has been since it was entered, in full force and effect.

VIII.

That thereafter an order of reference was duly made referring said clause in bankruptcy to the Honorable Chester G. Murphy, referee in bankruptcy, and that said Chester G. Murphy duly acted as such referee in said cause, and that on the 10th day of June, 1913, the said Larkin-Green Logging Company, a corporation, duly presented and filed with said referee a proof of claim in bankruptcy, which said proof of claim was duly approved [11] and allowed by said referee in bankruptcy forthwith, which said proof of claim is in the following words and figures, to wit:

*"In the District Court of the United States for the
District of Oregon.*

IN BANKRUPTCY.

In the Matter of CONSUMERS LUMBER &
SUPPLY CO..

Bankrupt.

At Portland, in said District of Oregon, on the

11

10th day of May, A. D. 1913, came Fred H. Green,
of _____, in the county of _____, and State of
_____, and made oath, and says that he is Treasurer
of the Larkin-Green Logging Co., a corporation,
incorporated by and under the laws of the state of Oregon
and carrying on business at Portland, in the County of Multnomah, and State of Oregon, and that he is duly authorized to make this proof, and says that the said bankrupt, the person by (or against) whom a petition for adjudication of bankruptcy has been filed, was at and before the filing of the said petition and still is, justly and truly indebted to said corporation in the sum of Seventy-four Hundred Twenty-four and 96/100 (\$7424.96) Dollars; with interest thereon at six per cent per annum from Oct. 13, 1913; that the consideration of said debt is as follows: sale of logs of the agreed price of \$7424.96, said sum being further evidenced by two certain promissory in the sums of \$3393.41 and \$3831.55, respectively, and dated October 13, 1913, which notes are hereto annexed:

(Copies of notes as follows, to wit:)

"\$3831.55 Portland, Ore. Oct. 13, 1912

Sixty days after date, without grace, we promise to pay to the order of Larkin-Green Logging Co., at their office. Thirty-eight Hundred Thirty-one and 55/100 Dollars in Gold Coin of the United States of America, with interest thereon in like Gold Coin, at the rate of six per cent per annum from date until paid, for value received. Interest payable at maturity and in case suit or action is instituted to

collect this Note or any portion thereof, we promise to pay such additional sum as the Court may adjudge reasonable as attorney's fees in said suit or action.

No. ——.

Due _____.

CONSUMERS LUMBER & SUPPLY CO.

By H. T. BURNTRAGER,

Secy. & Treas.

HENRY FOLZ,

President."

"3393.41

Portland, Ore., Oct. 13, 1912.

Sixty days after date, without grace, we promise to pay to the order of Larkin-Green Logging Co. at their office, Thirty-three Hundred Ninety-three and 41/100 Dollars in Gold Coin of the United States of America, with interest thereon in like Gold Coin, at the rate of six per cent per annum from date until paid, for value received. Interest payable at maturity, and in case suit or action is instituted to collect this Note or any portion thereof, we promise to pay such additional sum as the Court may adjudge reasonable as attorney's fees in said suit or action.

No. ——.

Due _____.

CONSUMERS' LUMBER & SUPPLY CO.

By H. T. BURNTRAGER,

Secy. & Treas.

HENRY FOLZ,

President.”

That no part of said debt has been paid.

That there are no set-offs or counterclaims to the same.

That no judgment has ever been recovered thereon; and that said corporation has not, nor has any person by its order, or to the knowledge or belief of said deponent, for its use, had or received any manner of security for said debt whatever.

FRED H. GREEN,
Treasurer of said Corporation.

Subscribed and sworn to before me this 10th day of May, A. D. 1913.

[Seal]

E. WINN,

Notary Public for Oregon. [12]

LETTER OF ATTORNEY.

To Kollock & Zollinger,

Corbett Bldg., Portland, Oregon.

The undersigned Larkin-Green Logging Co., a corporation organized and existing under the laws of the State of Oregon, and having an office and place of business at the City of Portland, Multnomah County, State of Oregon, does hereby authorize you or any one of you to attend the meeting or meetings of creditors of the bankrupt aforesaid, at a Court of Bankruptcy wherever advertised or directed to be holden, on the day and at the hour appointed and notified by the Court for holding such meeting or meetings, or at which such meeting or meetings, or any adjournment or adjournments thereof may be held, and then and there, from time to time, and as often as there may be occasion, for it, and in its name to vote for or against any proposal or resolution that may be then submitted under the Acts of Congress relating to Bankruptcy, and in the choice of Trustee or Trustees of

the estate of said bankrupt, and for it to assent to the appointment of such Trustee or Trustees; with like power to attend and vote at any other meeting or meetings of creditors, or sitting or sittings of the Court, which may be held therein for any of the purposes aforesaid; also to accept any composition proposed by said bankrupt in satisfaction of its debts, and to receive payment of dividends and of money due it under any composition, and for any other purpose whatsoever in its interest, with full power of substitution and revocation.

IN WITNESS WHEREOF, the said corporation has caused these presents to be executed by its Treasurer, Fred H. Green, duly authorized thereto, the 10th day of May, A. D. 1913.

LARKIN-GREEN LOGGING CO.

By FRED H. GREEN,

Treasurer of Said Corporation.

Signed, sealed and delivered in the presence of:

E. WINN.

State of Oregon,

County of Multnomah,—ss.

BE IT REMEMBERED, that on the 10th day of May, A. D. 1913, before me, the undersigned a notary public in and for said county and State, personally appeared Fred H. Green, to me personally known, and made oath and says: That he is Treasurer of Larkin-Green Logging Co., the corporation named in the foregoing Letter of Attorney; that said Letter of Attorney was signed and sealed on behalf of said corporation by due authority, and that it is the free and voluntary act and deed of said corporation, and

that the seal affixed to said Letter of Attorney is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this, my certificate above written.

[Seal]

E. WINN,

Notary Public in and for the State of Oregon.

IX.

That said notes annexed to said proof of claim and the consideration of the debt set forth therein, are the same notes and debt upon which suit was instituted in the Circuit Court of the State of Oregon for the County of Multnomah, on the 19th day [13] of December, 1912, in which suit a writ of attachment was issued and the property of the Consumers' Lumber & Supply Company, a corporation, levied upon, and in which judgment was obtained and execution threatened, as set forth in paragraphs XII and XIII hereof.

X.

That thereafter, the matter having been duly referred to the referee in bankruptcy by this court, as aforesaid, a meeting of creditors for the election of the trustee and the examination of the bankrupt, pursuant to the provisions of the Bankruptcy Act, was duly called and held, in which said meeting, on the 16th day of June, 1913, the defendant herein participated as an unsecured creditor in the election of a trustee; that one C. C. Rose was duly elected trustee of the estate of Consumers' Lumber & Supply Company, a corporation, bankrupt, and duly qualified and acted as such trustee from said date to the

5th day of October, 1914, at which date the said C. C. Rose, having tendered his resignation as trustee of said estate, said resignation was accepted, and R. L. Sabin, plaintiff herein, was duly elected and appointed trustee of said estate.

XI.

That the plaintiff, R. L. Sabin, duly qualified as trustee of said estate in bankruptcy by filing the required bond, which bond was duly approved and ordered filed, and has ever since acted, and is now acting as trustee of said estate in bankruptcy.

XII.

That said R. L. Sabin, trustee, is duly authorized, empowered, and directed to sell the property of said bankrupt coming into his hands, and that amongst the property coming into his hands which he is duly authorized to sell, are certain logs, lumber and timber, together with certain machinery, mill and equipment, located and situated near Ban Station, county of Multnomah, Portland, Oregon, which property was attached in a suit instituted in the Circuit Court of the State of Oregon for the [14] County of Multnomah, on the 19th day of December, 1912, by the Larkin-Green Logging Company, a corporation, and within four months of the filing of the petition in bankruptcy against said Consumers' Lumber & Supply Company, to recover judgment in the amount of \$7,224.96, with interest at the rate of 6% per annum from October 13, 1912, and \$500.00 reasonable attorney's fees, and costs and disbursements in said suit, and in which suit judgment was obtained as

prayed subsequent to the filing of the petition in bankruptcy.

XIII.

That your trustee, authorized as aforesaid to make sale of said property, is prevented, embarrassed and deterred from making a suitable sale of said property by reason of the fact that the said Larkin-Green Logging Company is asserting claim to said property by reason of said attachment and judgment mentioned in paragraph XII, and that execution is now threatened to be issued upon said judgment, and demand has been made upon the sheriff of Multnomah County to sell said property mentioned in paragraph XII under said execution and attachment.

XIV.

That by reason of said threats, claims, demands, and actions of the said defendant, Larkin-Green Logging Company, a corporation, which said threats, claims, demands and actions are without right, and which are based upon no title to said property or valid claims thereto, a cloud is cast upon the title of said trustee to said property and thereby the value of said property is being depreciated, and the plaintiff, as trustee, by reason of said threats, claims, demands, and actions of the defendant, Larkin-Green Logging Company, a corporation, has found, and will find it impracticable and impossible to sell said property at a reasonable value, or obtain a fair price therefor, and plaintiff as trustee is therefore embarrassed, deterred, and interfered with in his duty as an officer of this court. [15]

XV.

That on the 19th day of October, 1914, plaintiff herein, as trustee in bankruptcy, was duly authorized and ordered to enter this suit, by order entered by the referee in bankruptcy herein.

WHEREFORE, plaintiff prays that this Honorable Court may determine the right of the trustee in said property, and remove the cloud from said title, and that said Larkin-Green Logging Company, a corporation, its agents, employees, and attorneys, be enjoined and restrained from further prosecuting the said action instituted by it against the Consumers' Lumber & Supply Company, a corporation, and from attempting to levy upon said property or make sale thereof under said attachment or judgment in said suit.

That T. M. Word, sheriff of Multnomah County, Oregon, and any other officer of the county of Multnomah, State of Oregon, be enjoined and restrained from levying upon or selling said property, and in any way interfering with the same, and that the said Larkin-Green Logging Company, a corporation, its agents, employees, and attorneys be further enjoined and restrained from instituting any further suits or actions whatsoever from the recovery of said property.

That said trustee be awarded his reasonable costs and disbursements in this behalf expended, together with a reasonable attorney's fee on behalf of his attorney, and for such other and further relief as may

to equity be meet, and to this Court expedient.

R. L. SABIN,

Plaintiff.

BEACH, SIMON & NELSON,
SIDNEY TEISER,

Attorneys for Plaintiff.

United States of America,
Dist. and State of Oregon,
County of Multnomah,—ss.

I, R. L. Sabin, being first duly sworn, depose and say that I am plaintiff in the above proceeding, whose name is signed to the foregoing Amended Complaint in Equity, and that all the facts contained therein are true, as I verily believe.

R. L. SABIN.

Subscribed and sworn to before me this 12th day of November, 1914.

[Seal] H. A. KETTERMAN,

Notary Public for Oregon. [16]

United States of America,
State of Oregon,
County of Multnomah,—ss.

Due service of the within Amended Complaint in Equity is hereby accepted in Multnomah County, Oregon, this 12th day of November, 1914, by receiving a copy thereof, duly certified to as such by Sidney Teiser, Attorney for Plaintiff.

KOLLOCK, ZOLLINGER and McDOWELL,

Attorneys for Defendant.

Filed November 13, 1914. G. H. Marsh, Clerk.

And afterwards, to wit, on the 19th day of November, 1914, there was duly filed in said court, a Motion to Dismiss, in words and figures as follows, to wit: [18]

In the District Court of the United States for the District of Oregon.

No.—

R. L. SABIN, Trustee in Bankruptcy of the Estate of CONSUMERS LUMBER & SUPPLY COMPANY, a Corporation,

Plaintiff,

vs.

LARKIN-GREEN LOGGING COMPANY, a Corporation,

Defendant.

Motion [to Dismiss].

To The HONORABLE CHARLES E. WOLVERTON and HONORABLE R. S. BEAN, Judges of the District Court of the United States for the District of Oregon:

Comes now the defendant herein and moves the Court that the bill in equity herein be dismissed on the following grounds, to wit:

I.

That the Court has no jurisdiction of the person of this defendant or of the subject of this action, on the ground and for the reason that the petition in involuntary bankruptcy filed in the above-entitled court against Consumers Lumber & Supply Company is pleaded in full in the amended complaint herein;

and that said petition shows on its face a lack of jurisdiction in the above-entitled court, sitting as a court of bankruptcy, to entertain said petition or to adjudicate a bankrupt the Consumers Lumber & Supply Company, in that the alleged act of bankruptcy set forth in said petition is not an act of bankruptcy under the United States Statute relative to bankruptcy;

II.

That the plaintiff has no legal capacity to sue on the ground and for the reason that the petition in bankruptcy filed in the above-entitled court against Consumers Lumber & Supply Company is pleaded in full in the amended complaint herein, and that said [19] petition shows on its face that the above-entitled court, sitting as a court of bankruptcy, had no jurisdiction to entertain said petition to adjudicate a bankrupt the Consumers Lumber & Supply Company, and that all subsequent proceedings of said bankruptcy court, including election of trustee in bankruptcy, were null and void and of no effect, in that the alleged act of bankruptcy set forth in said petition is not an act of bankruptcy under the United States Statute;

III.

That the amended complaint fails to state facts sufficient to constitute a cause of suit against this defendant.

KOLLOCK, ZOLLINGER & McDOWELL,
Attorneys for Defendant.

I hereby certify that the foregoing motion is in my opinion well founded in point of law.

JOHN K. KOLLOCK.

United States of America,
District and State of Oregon,
County of Multnomah,—ss.

FRED H. GREEN, being first duly sworn, deposes and says:

I am secretary of the above-named defendant, Larkin-Green Logging Company; that the foregoing motion is not interposed for delay.

FRED H. GREEN.

Subscribed and sworn to before me this 16th day of November, 1914.

[Seal]

JOHN K. KOLLOCK,
Notary Public for Oregon.

State of Oregon,
County of Multnomah,—ss.

Due service of the within motion is hereby accepted in Multnomah County, Oregon, this 17th day of November, 1914, by receiving a copy thereof, duly certified to as such, by John K. Kollock, one of the attorneys for Dft.

SIDNEY TEISER,
of Attorneys for Pltf.

Filed November 19, 1914. G. H. Marsh, Clerk.
[20]

And afterwards, to wit, on Monday, the 21st day of December, 1914, the same being the 43d Judicial day of the regular November, 1914, term of said Court; Present: the Honorable CHARLES E. WOLVERTON, United States District Judge presiding, the following proceedings were had in said cause, to wit: [21]

In the District Court of the United States for the District of Oregon.

No. 6561.

December 21, 1914.

R. L. SABIN,

Trustee,

vs.

LARKIN-GREEN LOGGING CO.

[Order Denying Motion to Dismiss.]

This cause was heard upon the motion of the plaintiff to dismiss the bill of complaint herein and was argued by Mr. Sidney Teiser, of counsel for the plaintiff and by Mr. John K. Kollock, of counsel for the defendant; on consideration whereof, it is ordered and adjudged that said motion be and the same is hereby denied. [22]

And afterwards, to wit, on the 21st day of December, 1914, there was duly filed in said court, an Opinion, in words and figures as follows, to wit:

[23]

No. 6561.

In the District Court of the United States for the District of Oregon.

R. L. SABIN, Trustee in Bankruptcy of the Estate of CONSUMERS LUMBER & SUPPLY COMPANY, a Corporation,

Plaintiff,

vs.

LARKIN-GREEN LOGGING COMPANY, a Corporation,

Defendant.

BEACH, SIMON & NELSON and SIDNEY TEISER, for Plaintiff.

KOLLOCK, ZOLLINGER & McDOWALL, for Defendant.

Opinion.

WOLVERTON, District Judge:

This is a suit by the trustee in bankruptcy of the estate of the Consumers Lumber & Supply Company to determine his title to certain logs, free and unencumbered by a lien by way of an attachment against the Supply Company, which the defendant claims it has by right of a valid and still existing levy. A petition was filed in bankruptcy by certain creditors of the Supply Company April 17, 1913, which sets forth that said company "committed an act of bankruptcy,

in that it allowed Larkin-Green Logging Company to levy an attachment on all of the assets and property of said Consumers Lumber & [24] Supply Company, which attachment has never been released or discharged or vacated, and which attachment was levied on December eighteenth, 1912, and will become a prior lien and cannot be removed or set aside or dissolved through bankruptcy proceeding, after April eighteenth, 1913.

“That said Consumers Lumber & Supply Company has done nothing to vacate or set aside said attachment and has not gone into bankruptcy voluntarily and its failure so to do will thereby create a preference in favor of said Larkin-Green Logging Company, by reason of the attachment levied by said Larkin-Green Logging Company on said December eighteenth, 1912; said attachment is still a lien on all the assets of said debtors.

“That unless said Consumers Lumber & Supply Company is adjudicated a bankrupt and unless this petition is filed forthwith, a preference will be gained and obtained by said Larkin-Green Logging Company as well as by Linnton Savings Bank, which levied a writ of attachment and attached all of the assets of said Consumers Lumber & Supply Company on December 26th, 1912, and therefore on April 26th, 1913, said Linnton Savings Bank will also obtain a preference, as said Consumers Lumber & Supply Company has done nothing to set aside said attachment, nor has it filed a voluntary petition in bankruptcy.

“That the said obligations owing to said Larkin-

Green Logging Company and Linnton Savings Bank are for prior indebtedness which was owing to the said attaching creditors prior to said December 18th, 1912.

"That by reason of the foregoing facts said [25] Consumers Lumber & Supply Company has permitted and suffered a preference in favor of said Larkin-Green Logging Company and Linnton Savings Bank which can only be set aside through an adjudication in bankruptcy, of said Consumers Lumber & Supply Company."

All this is set out in the complaint, which further shows that the Supply Company was insolvent at the time of the attachment and at all times up to the time of the filing of the petition.

A demurrer to the petition was interposed by the Logging Company, assigning as a ground therefore that the facts stated do not constitute an act of bankruptcy, and, after a hearing, was overruled by the Court. Subsequently the Supply Company filed an answer admitting the allegations of the petition, and prayed that it be adjudged a bankrupt, and on May 7, 1913, the adjudication followed.

The Logging Company challenges the sufficiency of the complaint by motion to dismiss, on the ground that the court in bankruptcy was without jurisdiction to pass the adjudication, and that it does not state facts to entitle plaintiff to the relief demanded.

Practically the only question presented is whether the court in bankruptcy had jurisdiction to adjudicate the Supply Company a bankrupt upon the petition before it. The Logging Company insists that

the Court was without jurisdiction because the petition failed to state an act of bankruptcy. The attack is one collateral in character, and the consideration must proceed upon that basis. [26]

The court of bankruptcy is one of limited jurisdiction, in the sense that it can take cognizance of particular subjects only, namely, those included within the intendment of the statute, but its jurisdiction is unlimited in respect of its powers over proceedings in bankruptcy specifically made subject to its jurisdiction by section 2 of the Bankruptcy Act. And it is said:

“When judgments are rendered by that court upon questions arising in such proceedings, they possess all the incidents and qualities of finality and conclusiveness appertaining to judgments of courts of general jurisdiction. Its judgments, unless reversed on appeal or writ of error, import absolute verity.”

Edelstein v. United States, 149 Fed. 636, 638.

See also, *In re First Nat. Bank of Belle Fourche et al.*, 152 Fed. 64; *In re Columbia Real Estate Co.*, 101 Fed. 965, 970; and *In re Marion Contract & Construction Co.*, 166 Fed. 618.

In the First National Bank case, which was in bankruptcy, it is said:

“The jurisdiction of a court is not limited to the power to render correct decisions. It is the power to decide the issues according to its view of the law and the evidence, and its wrong decisions are as conclusive as its right ones. It empowers the Court to determine every issue within the scope of its authority, whether its decision is right or wrong,

and every judgment or decision so rendered is final and conclusive upon the parties, unless reversed by writ of error or appeal or [27] vacated by some direct proceeding."

Advancing to the sufficiency of the petition, it must be conceded that the Court committed an error in overruling the demurrer thereto (*Citizens Banking Co. v. Ravenna National Bank*, recently decided by the Supreme Court); but my conviction is that, the court having the power to adjudicate, its adjudication as to the sufficiency of the petition became final and binding upon the parties concerned, until set aside by review or appeal, and that it cannot now be questioned in a collateral way.

There was an attempt to set up the third act of bankruptcy. The petition failed in that, but it does not follow that the petition might not have been amended so as to state a good cause, and, the court having jurisdiction to decide, its adjudication must be held final until vacated by direct attack, especially as the bankrupt has itself admitted insolvency and prayed for the adjudication.

There exists another reason, however, why the defendant should not be permitted to resist the suit, which is that it has subsequently proved its claim as unsecured, and participated in the subsequent proceeding. Having done this, and it is so alleged, it cannot object to the jurisdiction of the court to make the adjudication.

In re Hintze, 134 Fed. 141;

In re Worsham, 142 Fed. 121;

In re New York Tunnel Co., 166 Fed. 284.

Motion denied.

Filed December 21, 1914. G. H. Marsh, Clerk.
[28]

And afterward, to wit, on the 28^h day of December, 1914, there was duly filed in said court, a Stipulation That Final Decree be Entered, in words and figures as follows, to wit: [29]

In the District Court of the United States for the District of Oregon.

R. L. SABIN, Trustee in Bankruptcy of the Estate of CONSUMERS LUMBER & SUPPLY COMPANY, a Corporation,

Plaintiff,

vs.

LARKIN-GREEN LOGGING COMPANY, a Corporation,

Defendant.

Stipulation [That Final Decree be Entered, etc.].

It is stipulated by and between the plaintiff, R. L. Sabin, Trustee, and the defendant, Larkin-Green Logging Company, a Corporation through their respective attorneys, that the defendant, Larkin-Green Logging Company, a Corporation, hereby waives the ten-day period prescribed by Rule 34 of the United States District Court rules for the District of Oregon, in which to answer after a demurrer or motion has been disposed of, and offers no objection to a decree being taken by plaintiff, said defendant desiring and determining to stand upon the decision upon its motion to dismiss or demurrer, and this stipula-

tion is made for the purpose of speedily perfecting an appeal.

Dated this 28th day of December, 1914.

SIDNEY TEISER,

Attorney for Plaintiff.

KOLLOCK, ZOLLINGER & McDOWALL,

Attorneys for Defendant.

Filed December 28, 1914. G. H. Marsh, Clerk.

[30]

And afterwards, to wit, on Monday, the 28th day of December, 1914, the same being the 49th judicial day of the regular November, 1914, term of said court; Present: the Honorable CHARLES E. WOLVERTON, United States District Judge presiding, the following proceedings were had in said cause, to wit: [31]

In the District Court of the United States for the District of Oregon.

R. L. SABIN, Trustee in Bankruptcy of the Estate of CONSUMERS' LUMBER & SUPPLY COMPANY, a Corporation,

Plaintiff,

vs.

LARKIN-GREEN LOGGING COMPANY, a Corporation,

Defendant.

Decree.

This cause having come on this day to be heard upon the plaintiff's amended complaint in equity, and

the defendant's motion to dismiss filed herein, and it appearing that the Court has heretofore denied defendant's said motion to dismiss, and it further appearing by stipulation filed herein that defendant does not intend or desire to answer said amended complaint in equity, and has specifically waived the time allowed to it by the rules of court within which to answer upon the determination of a motion to dismiss, and it further appearing from the facts set forth in plaintiff's said amended complaint in equity that plaintiff is entitled to the relief prayed for therein, therefore,

IT IS ADJUDGED, ORDERED, AND DECREED that R. L. Sabin, Trustee of the Estate of Consumers' Lumber & Supply Company, a corporation, bankrupt, has good title and right to the property of the said Consumers' Lumber & Supply Company, a corporation, bankrupt, and more particularly to certain logs, lumber, and timber, together with certain machinery, mill, and equipment, located and situated near Ban Station, County of Multnomah, Portland, Oregon, coming into his hands, which property was attached in a suit instituted [32] in the Circuit Court of the State of Oregon for the County of Multnomah, on the 19th day of December, 1912, by the Larkin-Green Logging Company, a corporation.

AND IT IS FURTHER ADJUDGED, ORDERED, AND DECREED, that the Larkin-Green Logging Company, a corporation, its agents, employees, and servants, be, and they hereby are enjoined and restrained from further prosecuting

said action instituted in said Circuit Court of the State of Oregon for the County of Multnomah, and from attempting to levy upon said property heretofore mentioned, or to make a sale thereof under said attachment or judgment in said suit, and that the sheriff of said County of Multnomah and his successors in office, and any other officer of the County of Multnomah, State of Oregon, be, and they hereby are enjoined and restrained from levying upon or selling said property, or in any way interfering with the same.

AND IT IS FURTHER ADJUDGED, ORDERED, AND DECREED, that said Larkin-Green Logging Company, a corporation, defendant, be, and it hereby is enjoined and restrained from instituting any further suits or actions whatsoever for the recovery of said property.

AND IT IS FURTHER ADJUDGED, ORDERED AND DECREED that the plaintiff herein have his reasonable costs and disbursements in this behalf expended, taxed at \$_____.

Dated this 28th day of December, 1914.

CHAS. E. WOLVERTON,

Judge.

Filed December 28, 1914. G. H. MARSH, Clerk.

[33]

And afterwards, to wit, on the 28th day of December, 1914, there was duly filed in said Court, a Petition for Appeal, in words and figures, as follows, to wit: [34]

In the District Court of the United States for the District of Oregon.

No. —.

R. L. SABIN, Trustee in Bankruptcy of the Estate of CONSUMERS' LUMBER & SUPPLY COMPANY, a Corporation,

Plaintiff,

vs.

LARKIN-GREEN LOGGING COMPANY, a Corporation,

Defendant.

Petition [for Appeal].

The above-named defendant, Larkin-Green Logging Company, a corporation, feeling itself aggrieved by the decree entered in the above-entitled court and cause, on the 28th day of December, 1914, does hereby appeal from said decree to the United States Circuit Court of Appeals for the 9th District, for the reasons set forth and specified in the assignment of errors which is filed herewith, and prays that an appeal be allowed and that citation issue as provided by law, and that a transcript of the record and proceedings upon which said decree was based, duly authenticated, be sent to the United States Circuit Court of Appeals for the 9th Circuit; and,

Your petitioner further prays that a proper order, touching the security to be required of it to perfect its appeal be made.

KOLLOCK, ZOLLINGER & McDOWALL,
Solicitors for Defendant, Larkin-Green Logging
Company, a Corporation.

Due personal service of the within petition for appeal made and admitted, and receipt of copy acknowledged, this 28th day of December, 1914.

SIDNEY TEISER,
Solicitor for Complainants.

Filed December 28, 1914. G. H. Marsh, Clerk.

[35]

And afterwards, to wit, on the 28th day of December, 1914, there was duly filed in said court, an Assignment of Errors, in words and figures as follows, to wit: [36]

In the District Court of the United States for the District of Oregon.

No. ——.

R. L. SABIN, Trustee in Bankruptcy of the Estate of CONSUMERS' LUMBER & SUPPLY COMPANY, a Corporation,

Plaintiff,

vs.

LARKIN-GREEN LOGGING COMPANY, a Corporation,

Defendant.

Assignment of Errors.

Comes now the defendant, Larkin-Green Logging Company, a corporation, and says that, in the decree herein made and entered there is manifest error, and makes and files the following assignment of errors committed and happening in the said cause, upon which it will rely in its appeal from said decree.

I.

The United States District Court for the District of Oregon erred in rendering and entering a decree herein in favor of the complainant and against the defendant, Larkin-Green Logging Company;

II.

That the Court erred in overruling and denying defendant's motion to dismiss the complaint of the complainants;

III.

That the Court erred in refusing to sustain and grant defendant's motion to dismiss complainant's complaint herein;

IV.

That the Court erred in holding that it had or has jurisdiction of the person of this defendant or of the subject matter of the above-entitled cause; [37]

V.

That the Court erred in not holding that the court had no jurisdiction of the person of this defendant or the subject matter of the above-entitled court;

VI.

That the Court erred in holding that the plaintiff had legal capacity to sue in the above-entitled cause;

VII.

That the Court erred in not holding that plaintiff had and has no legal capacity to sue in the above-entitled cause;

VIII.

That the Court erred in holding that the amended complaint in the above-entitled cause stated facts sufficient to constitute a cause of suit against this defendant;

IX.

That the Court erred in not holding that the amended complaint herein failed to state facts sufficient to constitute a cause of suit against this defendant.

KOLLOCK, ZOLLINGER & McDOWALL,
Attorneys and Solicitors for Defendant, Larkin-
Green Logging Company.

Filed December 28, 1914. G. H. Marsh, Clerk.

[38]

And afterwards, to wit, on Monday, the 28th day of December, 1914, the same being the 49th judicial day of the regular November, 1914 term of said court; Present: the Honorable CHARLES E. WOLVERTON, United States District Judge, presiding, the following proceedings were had in said cause, to wit: [39]

*In the District Court of the United States for the
District of Oregon.*

No. 6561.

R. L. SABIN, Trustee in Bankruptcy of the Estate
of CONSUMERS' LUMBER & SUPPLY
COMPANY, a Corporation,

Plaintiff,

vs.

LARKIN-GREEN LOGGING COMPANY, a Cor-
poration,

Defendant.

[Order Fixing Amount of Bond.]

The petition of defendant, Larkin-Green Logging Company, a corporation, for an appeal and allowance thereof, that citation issue as provided by law, and that a transcript of the records and proceedings upon which said decree was based, duly authenticated, be sent to the United States Circuit Court of Appeals for the 9th Circuit, having been duly presented to the Court,

IT IS NOW, THEREFORE, ORDERED, ADJUDGED AND DECREED that said petition be and the same is hereby granted and is hereby allowed this 28th day of December, 1914, to appeal the above-entitled cause to the United States Circuit Court of Appeals for the 9th Circuit, and the bond on appeal is hereby fixed at the sum of \$500.00.

Dated this 28th day of December, 1914.

CHAS. E. WOLVERTON,

Judge.

Filed December 28, 1914. G. H. Marsh, Clerk.
[40]

And afterwards, to wit, on the 28th day of December, 1914, there was duly filed in said court, a Bond on Appeal, in words and figures as follows, to wit: [41]

In the District Court of the United States for the District of Oregon.

No. —.

R. L. SABIN, Trustee in Bankruptcy of the Estate of CONSUMERS' LUMBER & SUPPLY COMPANY, a Corporation,

Plaintiff,

vs.

LARKIN-GREEN LOGGING COMPANY, a Corporation,

Defendant.

Undertaking on Appeal.

KNOW ALL MEN BY THESE PRESENTS: That Larkin-Green Logging Company, a corporation, as principal, and American Surety Company of New York, as surety, are held and firmly bound unto the above-named R. L. Sabin, Trustee in Bankruptcy of the Estate of Consumers' Lumber & Supply Company, a corporation, in the sum of \$500.00, for the payment of which well and truly to be made, we jointly and severally bind ourselves and each of our successors and assigns firmly by these presents, sealed with our respective corporate seals and dated

this 28th day of December, 1914.

WHEREAS, the above-named defendant has prosecuted an appeal to the United States Circuit Court of Appeals for the 9th Circuit, to reverse a decree rendered and entered in the above-entitled cause in the United States District Court for the District of Oregon, on December 28, 1914;

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that the above-named defendant, Larkin-Green Logging Company, a corporation, shall prosecute its said appeal to effect, and shall answer all damages and costs that may be awarded against it if it fails to make good its plea; then the above obligation to be void; [42] otherwise, to remain in full force and virtue.

[Seal of the American Surety Company.]

LARKIN-GREEN LOGGING COMPANY,

By JOHN K. KOLLOCK,

Att'y.

AMERICAN SURETY COMPANY OF NEW YORK,

By JOHN K. KOLLOCK,
Resident Vice-President.

AMERICAN SURETY COMPANY OF NEW YORK,

By W. A. KING,
Resident Assistant Secretary.

W. A. KING,
Resident Agent.

The above and foregoing cost bond is hereby approved this 28th day of December, 1914.

CHAS. E. WOLVERTON,
United States District Judge.

Filed December 28, 1914. G. H. Marsh, Clerk.

[43]

And afterwards, to wit, on the 28th day of December, 1914, there was duly filed in said court, a Praeclipe for Transcript, in words and figures as follows, to wit: [44]

In the District Court of the United States for the District of Oregon.

No. —.

R. L. SABIN, Trustee in Bankruptcy of the Estate of CONSUMERS' LUMBER & SUPPLY COMPANY, a Corporation,

Plaintiff,

vs.

LARKIN-GREEN LOGGING COMPANY, a Corporation,

Defendant.

[Praeclipe for Transcript of Record.]

To the Clerk of the Above-entitled Court:

You will please prepare transcript on appeal in the above-entitled cause, containing amended complaint, motion to dismiss the complaint, bond opinion of the Court, decree and appeal papers.

In preparing said transcript on appeal kindly

avoid the inclusion of more than one copy of the same paper.

KOLLOCK, ZOLLINGER & McDOWALL,
Attorneys for Defendant.

Filed December 28, 1914. G. H. Marsh, Clerk.
[45]

[Certificate of Clerk U. S. District Court to
Transcript of Record.]

United States of America,
District of Oregon,—ss.

I, G. H. Marsh, Clerk of the District Court of the United States for the District of Oregon, do hereby certify that the foregoing pages numbered from 4 to 43 constitute the transcript of record on appeal from the final decree of said Court in the cause pending in said Court between R. L. Sabin, Trustee in Bankruptcy of the Estate of Consumers' Lumber & Supply Company, a corporation, Plaintiff and Appellee, and the Larkin-Green Logging Company, a corporation, Defendant and Appellant; that said transcript has been prepared in accordance with the praecipe for transcript filed in said cause by said Appellant, and is a true and complete transcript of the record and proceedings had in said Court, in said cause, in accordance with said praecipe.

I further certify that the cost of said transcript is \$22.60, and that the same has been paid by said Appellant.

In testimony whereof, I have hereunto set my

hand and affixed the seal of said Court at Portland, in said District, this 29th day of December, 1914.

[Seal]

G. H. MARSH,

Clerk.

[Ten Cents Internal Revenue Stamp. Canceled.
December 24, 1914. G. H. M.] [46]

[Endorsed]: No. 2534. United States Circuit Court of Appeals for the Ninth Circuit. Larkin-Green Logging Company, a Corporation, Appellant, vs. R. L. Sabin, as Trustee in Bankruptcy of the Estate of Consumers' Lumber & Supply Company, a Corporation, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the District of Oregon.

Filed December 31, 1914.

FRANK D. MONCKTON,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,

Deputy Clerk.